Certification of Publication: Zoning Board of Appeals Administrator certifies publication of this agenda in the Daily Record, the official newspaper of the City of Omaha on Monday, October 3, 2016 and Thursday, October 6, 2016.

MEMBERS PRESENT: Brian Mahlendorf, Chair
                Sebastian Anzaldo
                Jeremy Aspen
                Jacque Donovan, Vice-Chair
                Jason Lanoha

MEMBERS NOT PRESENT: Sean Kelley (Alternate)
                      Michael Gorman (Alternate)

STAFF PRESENT: Mike Carter, Zoning Board of Appeals Administrator
               Jennifer Taylor, City Attorney
               Travis Gibbons/Cliff Todd, City Planners
               Clinette Ingram, Recording Secretary

Mr. Mahlendorf called the meeting to order at 1:00 p.m., introduced the board members and staff, and explained the procedures for hearing the cases.
LAYOVERS:

1. Case No. 16-083 (from 9/8/16)  
   Steve Huber  
   16820 Frances Street  
   Suite 102  
   Omaha, NE 68130  
   REQUEST: Waiver of Section 55-126 & 55-715 – Variance to the maximum height from 35’ to 46’ and to the minimum street yard landscaping depth from 15’ to 1’ to allow construction of a new home.  
   LOCATION: 3510 & 3520 South 228th Terrace  
   ZONE: R1  

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 17, 2016, Steve Huber (Curt Hofer Construction) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, recalled that the case had been laid over to give the applicant time to speak with neighbors and to give the board the opportunity to visit the site. The applicant did submit new information, which included maps and photos of the site. The Planning Department found no hardship or practical difficulty and recommended denial.

Mr. Lanoha stated for the record that he would be abstaining from the case.

Mr. Huber stated that he attempted to meet with the neighbors but they were unwilling to do so.

Ms. Donovan mentioned that the board had visited the site and was able to note the elevation changes.

Ms. Donovan moved to APPROVE in accordance with the plans submitted. Ms. Anzaldo seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Mahlendorf  

ABSTAIN: Lanoha  

MOTION CARRIED: 4-0-1
2. Case No. 16-086 (from 9/8/16)  
CB Richard Ellis/Mega  
11213 Davenport Street  
Omaha, NE 68154  

REQUEST: Waiver of Section 55-834 - Variance to the sign regulations to allow a 62 square foot, above the peak roof sign not otherwise permitted in the GO - General Office district and to the maximum sign budget from 113.25 square feet to 137 square feet.

LOCATION: 11213 Davenport Street  
ZONE: GO-FF/FW

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 17, 2016, Sam Garden (CBRE/Mega), Nate Neufind (Midland University) and Raymond Sass (Midland University) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, recalled that the case had been laid over to give the applicant the opportunity to revise the plans for the proposed sign. The applicant submitted revised plans that reduced the size of the sign to 62 square feet and showed the sign on the west-facing side of the mechanical space at the top of the building. The Planning Department found no hardship or practical difficulty to allow the request and believed that any signage should comply with the requirements of the district and, therefore, recommended denial.

Mr. Garden attempted to request additional signage for the property other than what was advertised. The applicant was advised that any additional requests would need to be submitted and advertised at a later date.

Mr. Anzaldo moved to APPROVE in accordance with the revised plans submitted. Ms. Donovan seconded the motion.

AYES: Donovan, Lanoha, Anzaldo, Mahlendorf

NAYES: Aspen

MOTION CARRIED: 4-1
NEW CASES:

3. Case No. 16-089  
   Terry & June Johnson  
   15948 Nottingham Drive  
   Omaha, NE 68118  
   REQUEST: Waiver of Section 55-186 – Variance to the rear yard setback from 25’ to 23.5’ to allow a deck to be rebuilt.  
   LOCATION: 15948 Nottingham Drive  
   ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 17, 2016, Terry Johnson appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to replace an existing deck with a new one of the same size and in the same location. It was determined that the existing deck encroached into the rear yard setback. The Planning Department found that no waiver had been granted for the original deck. It also found no hardship or practical difficulty and believed that any new structure should comply with regulations. The Planning Department recommended denial.

Mr. Johnson stated that the existing deck was rotting and needed to be replaced. He indicated that he was unaware that the deck was not in compliance. He mentioned that he did obtain support from his neighbors.

Ms. Donovan moved to APPROVE in accordance with the plans submitted. Mr. Lanoha seconded the motion.

AYES: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
4. Case No. 16-090
LaVonne Plambeck
12344 Pacific Street
Omaha, NE 68154

REQUEST: Waiver of Section 55-366 - Variance to the rear yard setback from 15' to 4' to construct a pergola.

LOCATION: 400 South 39th Street
ZONE: CC-ACI-1(PL)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 17, 2016, Larry Sheehan (Ellick & Jones) and Jake Snyder (Clear Creek Landscapes) appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a pergola 4’ from the property line. The Planning Department found no hardship or practical difficulty and believed that any new improvements should comply with the zoning regulations for that district. He mentioned that the applicant would need to apply for a Major Amendment if the waiver were granted since the use was conditional. The Planning Department recommended denial.

Mr. Sheehan explained that the pergola would replace the existing playground equipment and would provide shade for children attending the daycare.

Ms. Donovan moved to APPROVE in accordance with the plans submitted subject to the applicant applying for a Major Amendment to the assumed use permit to allow the pergola in the rear yard setback. Mr. Aspen seconded the motion.

AYES: Lanoha, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
5. Case No. 16-091
Steve Lahood
15939 Yates Street
Omaha, NE 68116

REQUEST: Waiver of Section 55-734 – Variance to the required number of off-street parking stalls from 2 to 0 to allow use of the structure for a single-family home.

LOCATION: 137 South 38th Street
ZONE: GC-AOI-1(PL)

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on October 17, 2016, Steve Lahood appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, explained that the property was a former MUD regulator station that was being converted into a single-family residence. The single-family use requires 2 off-street parking stalls; however, due to the small size of the site, parking cannot be provided. At its September meeting, the Planning Board approved a Conditional Use Permit to allow Single-Family Residential, subject to approval of the requested waiver by the Zoning Board of Appeals. The Planning Department believed that there was a practical difficulty and recommended approval in accordance with the plans submitted.

Mr. Lahood stated that it appeared that there was sufficient parking on the street.

Mr. Mahlendorf noted that the City had received a letter of opposition to the request from the business at 143 South 38th Street.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted. Mr. Aspen seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
6. Case No. 16-092
   Sara Fregoso
   3306 Madison Street
   Omaha, NE 68107

   REQUEST: Waiver of Section 55-186 & 55-782(b) – Variance to the rear yard setback from 25’
            to 15’4” for a 13’ x 21’5” patio cover and to allow an existing patio to encroach into the
            required rear and interior side yard setbacks.

   LOCATION: 3306 Madison Street
   ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 17, 2016, Sara Fregoso appeared
before the Board.

Mike Carter, Zoning Board of Appeals Administrator, explained that some of the existing
improvements to the site were constructed without the benefit of a permit. One of the
improvements was a patio to the rear of the property that was built approximately 6 years ago
and a recently-constructed, covered patio that was built into the side and rear yard setbacks.
The applicant proposed to modify the structure so that it would not encroach into the side yard
setback. It would also not encroach as far into the rear yard setback. The Planning Department
found no hardship or practical difficulty and recommended denial.

Ms. Fregoso explained that she was not aware that a permit was needed. She explained that the
cover was added to prevent water and snow from getting into the home. Ms. Donovan noted
that the entire home was built in the setback. It was also noted that the home was built on a
smaller sized lot.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted. Mr. Aspen seconded
the motion.

AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
7. Case No. 16-093

REQUEST: Waiver of Section 55-126 – Variance to the rear yard setback from 35’ to 32’ for a 12’ x 20’ addition to existing barn.

LOCATION: 20850 Paddock Circle

ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 17, 2016, Bill Meier appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant was proposing to construct a 12’ x 20’ addition to an existing 480 square foot, 2-story barn. With the addition, the total square footage of the structure would be 1,400 square feet. It would also extend into the rear yard setback. The Planning Department found no hardship or practical difficulty and believed that any additions should comply with zoning regulations and, therefore, recommended denial.

Mr. Meier explained that the barn was not a 2-story barn, but a 1-story barn with an attic for storing hay. He stated that the staircase to the attic could be removed and replaced with a ladder if absolutely necessary, which would bring the structure into compliance. In response to Ms. Donovan, Mr. Bishop stated that the addition would match the existing structure.

Ms. Donovan noted the irregular shape of the lot and added that only a small portion of the addition would actually encroach into the setback. She further noted that the adjacent horse trail provided an additional buffer for the neighbors to the west.

Ms. Donovan moved to APPROVE in accordance with the plans submitted. Mr. Aspen seconded the motion.

AYES: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
8. Case No. 16-094
Leslie Salvage, Inc.
1001 North 12th Street
Omaha, NE 68102

REQUEST: Waiver of Section 55-766(b)(3) - Variance to the separation requirement to allow a Scrap and Salvage Services use closer than 300' from a residential zoning district.

LOCATION: 6202 Orchard Avenue
ZONE: GI-FF

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on October 17, 2016, Kyle Haase (E & A Consulting) appeared before the Board in behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, explained that, at its September meeting, the Planning Board had approved a Special Use Permit to allow Scrap and Salvage Services on the site, subject to approval of the requested waiver. He explained that the properties to the west, south and east were zoned residential and that the code requires a 300’ separation requirement. The Planning Department was in support of the request since the area to the east is designated as Industrial on the Master Plan and would support rezoning of the site. In addition, the areas to the south and west are not designated for residential use. Development of the area would be limited due to unimproved access and floodplain issues that are apparent of the site. For those reasons, the Planning Department recommended approval in accordance with the plans submitted.

Mr. Haase stated that the lots to the east were zoned R4, but were vacant and owned by the City. The lots to the south and west were zoned DR and were being used for construction-related purposes.

Matt Doud (108 North 55th Street) appeared before the board. He stated that he, his father and a business associate owned some of the surrounding properties and that they had questions about how the proposed business would access their site. In response, Mr. Haase stated that he had attempted to contact the Doud family that morning and that he originally believed that there was a shared access agreement in place with the Douds and the previous owners of the proposed salvage site. He later found out that that was not the case. He stated that the applicant was willing to work with the neighbors to create an easement or to find another way to access the site without crossing onto the Doud’s property. Mr. Carter encouraged both parties to work together on a solution before the issue appeared before City Council for final approval.

Ms. Donovan moved to APPROVE in accordance with the plans submitted. Mr. Aspen seconded the motion.

AYES: Lanoha, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
APPROVAL OF MINUTES:

Mr. Anzaldo moved to APPROVE the minutes for the September 8, 2016 meeting. Mr. Aspen seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 1:57 p.m.

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Approved (date)

____________________________________________
Brian Mahlendorf, Chair

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Clinette Ingram, Secretary